

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

Wisconsin Resources Protection
Council, Center for Biological
Diversity, and Laura Gauger,

Plaintiffs,

v.

Case No. 11-cv-45

Flambeau Mining Company,

Defendant.

REVISED PARTIES' PRETRIAL STATEMENT

The parties, by their undersigned counsel, submit this Pretrial Statement in accordance with the Court's Preliminary Pretrial Conference Order dated April 7, 2011 (Dkt. #12) and the Court's Order in Non-Jury Cases:

A. STIPULATION OF UNCONTESTED FACTS

The parties' Stipulation of Uncontested Facts will be filed separately.

B. PROBABLE LENGTH OF TRIAL

The parties estimate that trial will take five to seven (5-7) days. The Court has agreed to bifurcate the presentation of evidence (not bifurcate the trial) into separate phases for liability and penalties; the liability phase will commence on Monday, May 21, 2012, and the penalty phase shall commence on Thursday, May 24, 2012.

C. NAMES OF ALL PROSPECTIVE WITNESSES

The parties' comprehensive list of all prospective witnesses is provided below:

Mr. Steve Anders	Mr. Philip Fauble
Mr. Steven Apfelbaum	Ms. Geralyn Felske
Mr. James Bertolacini	Mr. Harold Flater
Dr. G. Allen Burton	Mr. Fred Fox
Dr. David M. Chambers	Ms. Laura Gauger
Mr. Alan Christianson	Mr. James Hutchison
Mr. Jack Christman	Mr. John Kleist
Mr. David Cline	Ms. Sharon Kozicki
Dr. John Coleman	Mr. Lawrence Lynch
Ms. Elizabeth Day	Mr. Bruce Moore
Mr. Jeff Dimick	Ms. Jana Murphy
Mr. Stephen Donohue	Mr. Robert Nauta
Mr. James Engelhardt	Mr. Craig Roesler
Dr. Anne Fairbrother	Mr. Ivan Shanks

D. STIPULATION OF QUALIFICATIONS OF EXPERT WITNESSES

Plaintiffs stipulated to the expert qualifications of Defendant's witnesses

Elizabeth Day and Stephen Donohue as to their scientific knowledge, but not their legal expertise. Defendant does not stipulate to the expert qualifications of any of Plaintiffs' witnesses.

E. SCHEDULE OF TRIAL EXHIBITS

The exhibits for which the parties have reached agreement on the authenticity will be filed separately as a Joint Exhibit List. The parties' respective objections, if any, shall be filed separately. The parties have numbered all Joint Exhibits sequentially beginning with the number 1000.

Plaintiffs' schedule of exhibits they will offer in evidence at trial will be filed separately. Defendant's objections thereto will be filed separately.

Defendant's schedule of exhibits it will offer in evidence at trial will be filed separately. Plaintiffs' objections thereto will be filed separately.

F. STATEMENT OF THE CONTESTED ISSUES OF LAW

Plaintiffs' Statement of Contested Issues of Law will be filed separately.

Defendant's Statement of Contested Issues of Law will be filed separately.

G. DEPOSITIONS TO BE OFFERED IN EVIDENCE

The Defendant's list of depositions and portions of depositions to be offered in evidence, along with Plaintiffs' objections and counter-designations thereto, and the portions of those transcripts marked in color shall be filed separately.

The Plaintiffs' list of depositions and portions of depositions marked in color to be offered in evidence, along with Defendant's objections and counter-designations thereto, will be filed separately.

Respectfully submitted this 15th day of May, 2012.

/s/Pamela R. McGillivray
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